

(d) An award entered under this subchapter in an arbitration proceeding may not serve as an estoppel in any other proceeding for any issue that was resolved in the proceeding. Such an award also may not be used as precedent or otherwise be considered in any factually unrelated proceeding, whether conducted under this subchapter, by an agency, or in a court, or in any other arbitration proceeding.

(Added Pub. L. 101-552, §4(b), Nov. 15, 1990, 104 Stat. 2743, §590; renumbered §580 and amended Pub. L. 102-354, §§3(b)(2), 5(b)(3), Aug. 26, 1992, 106 Stat. 944, 946; Pub. L. 104-320, §8(a), Oct. 19, 1996, 110 Stat. 3872.)

#### AMENDMENTS

1996—Subsec. (c). Pub. L. 104-320, §8(a), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: “The head of any agency that is a party to an arbitration proceeding conducted under this subchapter is authorized to terminate the arbitration proceeding or vacate any award issued pursuant to the proceeding before the award becomes final by serving on all other parties a written notice to that effect, in which case the award shall be null and void. Notice shall be provided to all parties to the arbitration proceeding of any request by a party, nonparty participant or other person that the agency head terminate the arbitration proceeding or vacate the award. An employee or agent engaged in the performance of investigative or prosecuting functions for an agency may not, in that or a factually related case, advise in a decision under this subsection to terminate an arbitration proceeding or to vacate an arbitral award, except as witness or counsel in public proceedings.”

Subsecs. (d), (e). Pub. L. 104-320, §8(a)(2), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsecs. (f), (g). Pub. L. 104-320, §8(a)(1), struck out subsecs. (f) and (g) which read as follows:

“(f) An arbitral award that is vacated under subsection (c) shall not be admissible in any proceeding relating to the issues in controversy with respect to which the award was made.

“(g) If an agency head vacates an award under subsection (c), a party to the arbitration (other than the United States) may within 30 days of such action petition the agency head for an award of fees and other expenses (as defined in section 504(b)(1)(A) of this title) incurred in connection with the arbitration proceeding. The agency head shall award the petitioning party those fees and expenses that would not have been incurred in the absence of such arbitration proceeding, unless the agency head or his or her designee finds that special circumstances make such an award unjust. The procedures for reviewing applications for awards shall, where appropriate, be consistent with those set forth in subsection (a)(2) and (3) of section 504 of this title. Such fees and expenses shall be paid from the funds of the agency that vacated the award.”

1992—Pub. L. 102-354, §3(b)(2), renumbered section 590 of this title as this section.

Subsec. (g). Pub. L. 102-354, §5(b)(3), substituted “fees and other expenses” for “attorney fees and expenses”.

#### § 581. Judicial Review<sup>1</sup>

(a) Notwithstanding any other provision of law, any person adversely affected or aggrieved by an award made in an arbitration proceeding conducted under this subchapter may bring an action for review of such award only pursuant to the provisions of sections 9 through 13 of title 9.

(b) A decision by an agency to use or not to use a dispute resolution proceeding under this

subchapter shall be committed to the discretion of the agency and shall not be subject to judicial review, except that arbitration shall be subject to judicial review under section 10(b)<sup>2</sup> of title 9.

(Added Pub. L. 101-552, §4(b), Nov. 15, 1990, 104 Stat. 2744, §591; renumbered §581 and amended Pub. L. 102-354, §3(b)(2), (4), Aug. 26, 1992, 106 Stat. 944, 945; Pub. L. 104-320, §8(b), Oct. 19, 1996, 110 Stat. 3872.)

#### REFERENCES IN TEXT

Section 10(b) of title 9, referred to in subsec. (b), was redesignated section 10(c) of title 9 by Pub. L. 107-169, §1(4), May 7, 2002, 116 Stat. 132.

#### PRIOR PROVISIONS

A prior section 581 was renumbered section 571 of this title.

Another prior section 581 was renumbered section 561 of this title.

#### AMENDMENTS

1996—Subsec. (b). Pub. L. 104-320, which directed that section 581(d) of this title be amended by striking “(1)” after “(b)” and by striking par. (2), was executed to subsec. (b) of this section to reflect the probable intent of Congress. Prior to amendment, par. (2) read as follows: “A decision by the head of an agency under section 580 to terminate an arbitration proceeding or vacate an arbitral award shall be committed to the discretion of the agency and shall not be subject to judicial review.”

1992—Pub. L. 102-354, §3(b)(2), renumbered section 591 of this title as this section.

Subsec. (b)(2). Pub. L. 102-354, §3(b)(4), substituted “section 580” for “section 590”.

#### § 582. Repealed. Pub. L. 104-320, §4(b)(1), Oct. 19, 1996, 110 Stat. 3871

Section, added Pub. L. 101-552, §4(b), Nov. 15, 1990, 104 Stat. 2744, §592; renumbered §582, Pub. L. 102-354, §3(b)(2), Aug. 26, 1992, 106 Stat. 944, related to compilation of data on use of alternative means of dispute resolution in conducting agency proceedings.

#### § 583. Support services

For the purposes of this subchapter, an agency may use (with or without reimbursement) the services and facilities of other Federal agencies, State, local, and tribal governments, public and private organizations and agencies, and individuals, with the consent of such agencies, organizations, and individuals. An agency may accept voluntary and uncompensated services for purposes of this subchapter without regard to the provisions of section 1342 of title 31.

(Added Pub. L. 101-552, §4(b), Nov. 15, 1990, 104 Stat. 2745, §593; renumbered §583, Pub. L. 102-354, §3(b)(2), Aug. 26, 1992, 106 Stat. 944; amended Pub. L. 104-320, §5, Oct. 19, 1996, 110 Stat. 3871.)

#### PRIOR PROVISIONS

Prior sections 583 to 590 were renumbered sections 573 to 580 of this title, respectively.

Other prior sections 583 to 590 were renumbered sections 563 to 570 of this title, respectively.

#### AMENDMENTS

1996—Pub. L. 104-320 inserted “State, local, and tribal governments,” after “other Federal agencies.”

1992—Pub. L. 102-354 renumbered section 593 of this title as this section.

<sup>1</sup> So in original. Probably should not be capitalized.

<sup>2</sup> See References in Text note below.

§ 584. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter.

(Added Pub. L. 104-320, §10(a), Oct. 19, 1996, 110 Stat. 3873.)

SUBCHAPTER V—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

AMENDMENTS

1992—Pub. L. 102-354, §2(1), Aug. 26, 1992, 106 Stat. 944, redesignated subchapter III of this chapter as this subchapter.

TERMINATION OF ADMINISTRATIVE CONFERENCE OF UNITED STATES

Pub. L. 104-52, title IV, Nov. 19, 1995, 109 Stat. 480, provided: "For necessary expenses of the Administrative Conference of the United States, established under subchapter V of chapter 5 of title 5, United States Code, \$600,000: Provided, That these funds shall only be available for the purposes of the prompt and orderly termination of the Administrative Conference of the United States by February 1, 1996."

§ 591. Purposes

The purposes of this subchapter are—

- (1) to provide suitable arrangements through which Federal agencies, assisted by outside experts, may cooperatively study mutual problems, exchange information, and develop recommendations for action by proper authorities to the end that private rights may be fully protected and regulatory activities and other Federal responsibilities may be carried out expeditiously in the public interest;
(2) to promote more effective public participation and efficiency in the rulemaking process;
(3) to reduce unnecessary litigation in the regulatory process;
(4) to improve the use of science in the regulatory process; and
(5) to improve the effectiveness of laws applicable to the regulatory process.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 388, §571; renumbered §591, Pub. L. 102-354, §2(2), Aug. 26, 1992, 106 Stat. 944; Pub. L. 108-401, §2(a), Oct. 30, 2004, 118 Stat. 2255.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 1045(e), Aug. 30, 1964, Pub. L. 88-499, §2(e), 78 Stat. 615.

The words "this subchapter" are substituted for "this Act" to reflect the codification of the Administrative Conference Act in this subchapter.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

PRIOR PROVISIONS

A prior section 591 was renumbered section 581 of this title.

AMENDMENTS

2004—Pub. L. 108-401 amended section catchline and text generally. Prior to amendment, text read as follows: "It is the purpose of this subchapter to provide

suitable arrangements through which Federal agencies, assisted by outside experts, may cooperatively study mutual problems, exchange information, and develop recommendations for action by proper authorities to the end that private rights may be fully protected and regulatory activities and other Federal responsibilities may be carried out expeditiously in the public interest."

1992—Pub. L. 102-354 renumbered section 571 of this title as this section.

§ 592. Definitions

For the purpose of this subchapter—

(1) "administrative program" includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rule making, adjudication, licensing, or investigation, as those terms are used in subchapter II of this chapter, except that it does not include a military or foreign affairs function of the United States;

(2) "administrative agency" means an authority as defined by section 551(1) of this title; and

(3) "administrative procedure" means procedure used in carrying out an administrative program and is to be broadly construed to include any aspect of agency organization, procedure, or management which may affect the equitable consideration of public and private interests, the fairness of agency decisions, the speed of agency action, and the relationship of operating methods to later judicial review, but does not include the scope of agency responsibility as established by law or matters of substantive policy committed by law to agency discretion.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 388, §572; renumbered §592, Pub. L. 102-354, §2(2), Aug. 26, 1992, 106 Stat. 944.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 1045a, Aug. 30, 1964, Pub. L. 88-499, §3, 78 Stat. 615.

In paragraph (1), the words "subchapter II of this chapter" are substituted for "the Administrative Procedure Act (5 U.S.C. 1001-1011)" to reflect the codification of the Act in this title. The word "naval" is omitted as included in "military".

In paragraph (2), the words "section 551(1) of this title" are substituted for "section 2(a) of the Administrative Procedure Act (5 U.S.C. 1001(a))".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

PRIOR PROVISIONS

A prior section 592 was renumbered section 582 of this title and was subsequently repealed.

AMENDMENTS

1992—Pub. L. 102-354 renumbered section 572 of this title as this section.

§ 593. Administrative Conference of the United States

(a) The Administrative Conference of the United States consists of not more than 101 nor less than 75 members appointed as set forth in subsection (b) of this section.